

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LANCE McDERMOTT,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendants.

No. C05-0860RSL

ORDER CONTINUING PENDING
MOTIONS

This matter comes before the Court *sua sponte*. Currently pending before the Court are plaintiff's "Motion for Protective Order" (Dkt. # 17), defendant's "Motion to Dismiss for Lack of Subject Matter Jurisdiction" (Dkt. # 22), and defendant's "Motion to Dismiss the Claims in Plaintiff's Pleading Amendment for Lack of Subject Matter Jurisdiction" (Dkt. # 33). Both of defendant's motions to dismiss, as well as plaintiff's demand for affirmative relief/protective order, turn on the Ninth Circuit's decision in Whitman v. Dept. of Transp., 382 F.3d 938 (9th Cir. 2004). That decision is currently on appeal before the Supreme Court and, on May 2, 2006, the parties in that case were requested to provide supplemental briefs addressing the applicability of Darby v. Cisneros, 509 U.S. 137 (1993).

In light of the significant impact the Supreme Court's decision in Whitman v. Dept. of Transp., Cause No. 04-1131, may have on this litigation, the Court finds that a continuance of the pending motions in the above-captioned matter is warranted. The Clerk of

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1 Court is directed to renote plaintiff's "Motion for Protective Order" (Dkt. # 17), defendant's
2 "Motion to Dismiss for Lack of Subject Matter Jurisdiction" (Dkt. # 22), and defendant's
3 "Motion to Dismiss the Claims in Plaintiff's Pleading Amendment for Lack of Subject Matter
4 Jurisdiction" (Dkt. # 33) on the Court's calendar for Friday, June 9, 2006. The Clerk of Court is
5 also directed to remove from the Court's motion calendar plaintiff's motions to quash (Dkt. # 24
6 and 34).¹

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8 DATED this 17th day of May, 2006.

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10 Robert S. Lasnik
11 United States District Judge
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¹ These "motions" are plaintiff's responses to defendant's motions to dismiss.